

BAY COUNTY ELECTION COMMISSION  
PORTSMOUTH TWP. CLARITY  
APRIL 21, 1992  
(RECALL WORDING APPROVAL)

THE BAY COUNTY ELECTION COMMISSION MET ON TUESDAY, APRIL 21, 1992, IN THE COMMISSIONER'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING FOR THE PURPOSE OF REVIEWING PETITIONS SUBMITTED FOR THE RECALL OF SEVEN PORTSMOUTH TOWNSHIP BOARD MEMBERS. THE MEETING WAS CALLED TO ORDER AT 11:00 A.M. BY CLERK, BARBARA ALBERTSON. THE FOLLOWING MEMBERS AND GUESTS WERE IN ATTENDANCE.

ROLL CALL: CAROLINE KROL, TREASURER  
BARBARA ALBERTSON, CLERK  
BARBARA DUFRESNE, REG. OF DEEDS

OTHERS CYNTHIA A. LUCZAK, SECRETARY  
PRESENT: PAT DUGGAN, CORPORATION COUNSEL  
DONALD KRZEWSKI, PETITIONER  
EDWARD BUKOWSKI, PETITIONER  
JUDY BUKOWSKI, TWP. CLERK  
HENRY BRANDT, TWP. TREASURER  
CHARLES PAWLAK, TWP. TRUSTEE  
DALE DAVIS, TWP. TRUSTEE  
JOHN MCQUILLAN, ATTORNEY

CLERK ALBERTSON ASKED THAT THE RECORD REFLECT THE FACT THAT REGISTER OF DEEDS, BARBARA DUFRESNE, HAD ACCEPTED A TEMPORARY POSITION ON THE ELECTION COMMISSION (EFFECTIVE APRIL 9, 1992), IN THE ABSENCE OF JUDGE PAUL DONER. JUDGE DONER HAD REQUESTED A DISQUALIFICATION FROM THE ELECTION COMMISSION IN MATTERS INVOLVING THE RECALL PETITION REQUESTS OF MR. DONALD KRZEWSKI AGAINST THE PORTSMOUTH TOWNSHIP BOARD. CLERK ALBERTSON THANKED MS. DUFRESNE FOR ACCEPTING THIS RESPONSIBILITY.

CLERK ALBERTSON INDICATED THE FIRST ORDER OF BUSINESS WOULD BE TO ELECT A TEMPORARY CHAIRPERSON TO CONDUCT THE SESSION AND ANY OTHER IN THIS MATTER.

MOTION 1: BARBARA DUFRESNE MOVED TO APPOINT CAROLINE KROL AS THE ACTING CHAIRPERSON FOR THIS SESSION AND ANY OTHER INVOLVING MR. DONALD KRZEWSKI AND THE RECALL OF PORTSMOUTH TOWNSHIP BOARD MEMBERS. CLERK BARB ALBERTSON SUPPORTED THE NOMINATION AS MS. KROL EVIDENCED ACCEPTANCE OF THE POSITION. MOTION CARRIED BY VOTE OF 3 YEAS, 0 NAYS.

CHAIRPERSON KROL RESTATED THE PURPOSE OF THE SESSION.

THAT THE MEETING WAS PROVIDED UNDER THE STATE LAW TO REVIEW THE PETITIONS SUBMITTED FOR CLARITY, PRIOR TO PLACEMENT ON ANY RECALL BALLOT. MR. KRZEWSKI HAD ASKED THE ELECTION COMMISSION REVIEW PETITIONS FOR THE RECALL OF SEVEN (7) PORTSMOUTH TOWNSHIP BOARD MEMBERS.

AS THE MEETING WAS HELD IN ACCORDANCE WITH THE OPEN MEETINGS ACT, CHAIRPERSON KROL OFFERED TO ACCEPT THE COMMENTS OF THE PUBLIC AT THIS TIME.

PETITIONER KRZEWSKI STATED HE WAS PLEASED WITH THE DECISION OF JUDGE DONER TO DISQUALIFY HIMSELF FROM THE PORTSMOUTH TOWNSHIP CLARITY HEARINGS. PETITIONER KRZEWSKI ADDED HE DID NOT APPRECIATE BEING "SCOLDED" BY JUDGE DONER AT THE LAST SESSION AND FELT HE MAY HAVE NOT RECEIVED FAIR CONSIDERATION IN THE PAST WITH JUDGE DONER. COMMENTS WERE MADE IN REFERENCE TO THE CIRCUIT COURT OPINION RENDERED BY THE HON. WILLIAM J. CAPRATHE. THE ELECTION COMMISSION HAD BEEN CONVINCED A PETITIONER MUST PROVE MISFEASANCE, MALFEASANCE OR NONFEASANCE IN OFFICE WHICH JUDGE CAPRATHE DISAGREED WITH. MR. KRZEWSKI READ THE PORTION OF THE OPINION THAT CITED CASELAW IN SUPPORT OF SUCH. NOTED WERE THE FORMER BLANKET PETITIONS SUBMITTED WHICH JUDGE DONER HAD FELT DID NOT SPECIFICALLY ADDRESS THE MEMBER WHOSE RECALL WAS BEING SOUGHT. MR. KRZEWSKI HAD NAMED THE PERSONS INDIVIDUALLY IN THIS PETITION LANGUAGE SO AS TO BE MORE SPECIFIC IN ACCORDANCE WITH THE STATUTE.

JOHN MCQUILLAN SPOKE ON BEHALF OF THE PORTSMOUTH TWP. BOARD. IT WAS MR. MCQUILLAN'S OPINION, THE REFERENCE MADE BY MR. KRZEWSKI TO THE PROCEEDINGS OF JUDGE CAPRATHE, WERE IRRELEVANT TO THE RECALL HEARING. FURTHER, THAT THE FUNCTION OF THE COURTS HAVE A DIFFERENT FUNCTION THAN THE ELCTION COMMISSION IN THE REVIEW OF RECALL PETITION LANGUAGE. MR. MCQUILLAN THOUGHT THE PETITIONER DID NOT UNDERSTAND THE DIFFERENCES IN FUNCTIONS. ALSO, THAT THE FIRST SENTENCE OF THE PETITION WAS "FACTUALLY UNTRUE". THE SECOND SENTENCE WAS CLEAR AND UNDERSTANDABLE BUT THE THIRD SENTENCE WAS ONLY A PARAPHRASED/SUBJECTIVE INTREPRETATION OF AN ATTORNEY GENERAL OPINION. THAT THE THIRD SENTENCE WAS ONLY A STATEMENT OF OPINION AND NOT A STATEMENT OF FACT AS TO THE COURSE OF CONDUCT THESE BOARD MEMBERS WERE RECALLED UPON. DISCUSSED WAS THE DATE JUDGE CAPRATHE HAD ISSUED HIS OPINION, A DATE FOLLOWING A SERIES OF OTHER RECALL ATTEMPTS. FINAL OBJECTIONS TO THE FIRST AND THIRD SENTENCES WERE VOICED BY MR. MCQUILLAN.

MR. KRZEWSKI WISHED TO RESPOND TO THE COMMENTS OF MR. MCQUILLAN. IT WAS HIS FEELING, THE STATUTE DID NOT ADDRESS WHETHER OR NOT THE INFORMATION CONTAINED

IN A RECALL PETITION MUST BE DETERMINED TRUE OR NOT. THAT IT WAS NOT THE ELECTION COMMISSION'S CALL TO DECIDE IF THE INFORMATION BE ACCURATE. THE ATTORNEY GENERAL OPINION HAD BEEN INCLUDED IN THIS RECALL LANGUAGE FOR THE PURPOSE OF CLARIFICATION ONLY AND BASED ON THE LAW.

BARBARA DUFRESNE QUESTIONED IF MR. KRZEWSKI WOULD PROCEED WITH THE RECALL PROCESS KNOWING THAT THE CANDIDATE FILING DEADLINE FOR THE PRIMARY ELECTION WAS IN THE NEAR FUTURE AND THAT NEW BOARD MEMBERS MAY BE ELECTED AT THE AUGUST PRIMARY ELECTION. MR. KRZEWSKI STATED HE WOULD ATTEMPT TO OBTAIN THE NECESSARY SIGNATURES FOR PLACEMENT ON THE AUGUST PRIMARY BALLOT.

CLERK ALBERTSON ADDED, SHOULD THE TOWNSHIP BOARD BE RECALLED PRIOR TO THE ELECTION, THAT A SPECIAL ELECTION MAY BE NECESSARY TO FILL VACANCIES IN THE INTERIM. OTHER TIME LIMITS MAY WARRANT A SPECIAL ELECTION FOR THE RECALL ELECTION ITSELF. FURTHER, THAT THE COUNTY AND TOWNSHIP SHALL BE RESPONSIBLE FOR EXPENSES INCURRED IN CONDUCTING THESE ELECTIONS.

IT WAS MR. KRZEWSKI'S OPINION, THE PEOPLE OF THE TOWNSHIP DID NOT CARE ABOUT THE COSTS OF ELECTIONS AS THEY DID NOT OBJECT TO THE SPENDING OF SEVEN (7) MILLION DOLLARS FOR A SEWER PROJECT.

PAT DUGGAN FELT THE ELECTION COMMISSION HAD A PRETTY CONCISE PETITION TO WORK WITH AT THIS CLARITY REVIEW. FURTHER, THAT IT WAS UNDERSTANDABLE AND COULD BE RESPONDED TO BY THE PETITIONER WHOSE RECALL WAS BEING SOUGHT. THAT THE MEMBERS BEING RECALLED HAD COMPLETED AT LEAST A SIX (6) MONTH TERM WITHIN THAT OFFICE AND THE TRUE OR FALSE INFORMATION WAS NOT THE ISSUE. MR. MCQUILLAN'S OBJECTION TO THE ATTORNEY GENERAL OPINION WAS NOT CLEAR AS MR. KRZESINSKI HAD INCLUDED THAT INFORMATION AS JUSTIFICATION FOR A STATEMENT. THEREFORE, HOW THE ELECTION COMMISSION WAS TO VOTE WAS NOT A LEGAL MATTER BUT ONE OF CLARITY ONLY.

THE COMMISSION MEMBERS DECIDED TO VOTE ON THE LANGUAGE OF THE PETITION WITH ONE MOTION AS ALL THE PETITIONS REFLECTED THE SAME VERBIAGE WITH EXCEPTION OF THE TOWNSHIP OFFICER NAMED.

CLERK ALBERTSON EXPRESSED REGRETS THAT THE RECALL STATUTES ALLOWED THE ELIMINATION OF TOWNSHIP OFFICIALS WHEN ATTEMPTING TO DO THEIR DUTIES. SHE ADDED SHE WOULD ATTEMPT TO WORK WITH LEGISLATORS TO AMEND RECALL STATUTE REQUIREMENTS IN THE FUTURE.

FOLLOWING THE COMMENTS OF THE PETITIONERS, TOWNSHIP REPRESENTATIVE AND ELECTION COMMISSION MEMBERS, THE

FOLLOWING MOTION WAS MADE.

MOTION 3: CLERK ALBERTSON MOVED THAT THE RECALL PETITIONS SUBMITTED AT THIS SESSION BE APPROVED FOR CIRCULATION AS THEY WERE CLEAR UNDER THE STATUTE PRESCRIBED BY LAW. CAROLINE KROL SUPPORTED THE MOTION AS CARRIED BY ROLL CALL VOTE OF 2 YEAS AND 1 NAY-DUFRESNE.

CHAIRPERSON KROL INDICATED THE RECALL PETITIONS WERE APPROVED FOR CIRCULATION AND THAT THE ELECTION COMMISSION WOULD NOW BE IN RECESS.

THE MEETING OF THE ELECTION COMMISSION MEMBERS WAS RECESSED AT 11:25 A.M.

RESPECTFULLY SUBMITTED

BARBARA ALBERTSON  
BAY COUNTY CLERK